

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1273V

Filed: January 5, 2021

UNPUBLISHED

STACI PUTNAM, as Personal
Representative of the Estate of A.B.,
Deceased,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Joint Stipulation on Damages;
Influenza (Flu) Vaccine; Chronic
demyelinating polyneuropathy; CIDP

Michael G. McLaren, Black McLaren Jones Ryland & Griffie, P.C., Memphis, TN, for petitioner.

Christine Mary Becer, U.S. Department of Justice, Washington, DC, for respondent.

DECISION ON JOINT STIPULATION¹

On October 5, 2016, petitioner filed a petition on behalf of A.B., her deceased child, for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the "Vaccine Act"). Petitioner alleges that A.B. developed chronic inflammatory demyelinating polyneuropathy ("CIDP") caused by his October 20, 2014 flu vaccination. Stipulation, filed January 5, 2021, at ¶ 4. Petitioner further alleges that A.B. experienced the residual effects of his injuries for more than six months and that there has been no prior award or settlement for damages as a result of A.B.'s condition or death. Petition at 3-4; Stipulation at ¶¶ 3, 5. "Respondent denies that the flu vaccine caused A.B. to suffer from CIDP or any other injury or his death. " Stipulation at ¶ 6.

¹ Because this decision contains a reasoned explanation for the special master's action in this case, it will be posted on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. See 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the Internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information the disclosure of which would constitute an unwarranted invasion of privacy. If the special master, upon review, agrees that the identified material fits within this definition, it will be redacted from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

Nevertheless, on January 5, 2021, the parties filed the attached joint stipulation, stating that a decision should be entered awarding compensation. I find the stipulation reasonable and adopt it as the decision of the Court in awarding damages, on the terms set forth therein.

Pursuant to the terms stated in the attached Stipulation, **I award the following compensation:**

- a. A lump sum of \$100,000.00 in the form of a check payable to petitioner, as legal representative of A.B.'s estate.** Stipulation at ¶ 8. This amount represents compensation for all items of damages that would be available under § 15(a). *Id.*
- b. A lump sum of \$100,000.00 which amount represents reimbursement of a Michigan Department of Health and Human Services Medicaid lien for services rendered on behalf of A.B., in the form of a check payable jointly to petitioner and Michigan Department of Health and Human Services, and mailed to:**

**Michigan Department of Health and Human Services
Third Party Liability Division
P.O. Box 30053
Lansing, MI 48909
Medicaid ID: 0025149844**

Petitioner agrees to endorse this payment to the Michigan Department of Health and Human Services. Stipulation at ¶ 8.

These amounts represent compensation for all items of damages that would be available under § 15(a). *Id.*

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Daniel T. Horner
Daniel T. Horner
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

STACI PUTNAM, as personal
representative of the Estate of A.B., dec'd,

Petitioner,

V.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 16-1273V
Special Master Horner
ECF

STIPULATION

The parties hereby stipulate to the following matters:

1. Staci Putnam, petitioner, filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa-10 to -34 (the "Vaccine Program"), on behalf of her son, A.B. The petition seeks compensation for injuries allegedly related to A.B.'s receipt of an influenza ("flu") vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a).

2. A.B. received the flu vaccine on October 20, 2014.

3. The vaccination was administered within the United States.

4. Petitioner alleges that A.B. suffered from chronic inflammatory demyelinating polyneuropathy ("CIDP") as a result of receiving the flu vaccine.

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on A.B.'s behalf as a result of his condition or death.

6. Respondent denies that the flu vaccine caused A.B. to suffer from CIDP or any other injury or his death.

7. Maintaining their above-stated positions, the parties nevertheless now agree that the issues between them shall be settled and that a decision should be entered awarding the compensation described in paragraph 8 of this Stipulation.

8. As soon as practicable after an entry of judgment reflecting a decision consistent with the terms of this Stipulation, and after petitioner has filed an election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), the Secretary of Health and Human Services will issue the following vaccine compensation payments:

- a. A lump sum of \$100,000.00 in the form of a check payable to petitioner, as legal representative of A.B.'s estate; and
- b. A lump sum of \$100,000.00, which amount represents reimbursement of a Michigan Department of Health and Human Services Medicaid lien for services rendered on behalf of A.B., in the form of a check payable jointly to petitioner and Michigan Department of Health and Human Services, and mailed to:

Michigan Department of Health and Human Services
Third Party Liability Division
P.O. Box 30053
Lansing, MI 48909
Medicaid ID: 0025149844

Petitioner agrees to endorse this payment to the Michigan Department of Health and Human Services.

These amounts represent compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

9. As soon as practicable after the entry of judgment on entitlement in this case, and after petitioner has filed both a proper and timely election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), and an application, the parties will submit to further proceedings before the special master to award reasonable attorneys' fees and costs incurred in proceeding upon this petition.

10. Petitioner and her attorney represent that compensation to be provided pursuant to this Stipulation is not for any items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g), to the extent that payment has been made or can reasonably be expected to be made under any State compensation programs, insurance policies, Federal or State health benefits programs (other than Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.)), or by entities that provide health services on a pre-paid basis.

11. Payments made pursuant to paragraph 8 of this Stipulation and any amounts awarded pursuant to paragraph 9 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

12. Petitioner represents that she presently is, or within 90 days of the date of judgment will become, duly authorized to serve as guardian(s)/conservator(s) of A.B.'s estate under the laws of the State of Michigan. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as guardian(s)/conservator(s) of A.B.'s estate. If petitioner is not authorized by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of A.B. at the time a payment pursuant to this Stipulation is to be made, any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of A.B. upon submission of written documentation of such appointment to the Secretary.

13. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity, and as legal representative of A.B.'s estate, on her own behalf, and on behalf of A.B.'s estate and A.B.'s heirs, executors, administrators, successors or assigns, does forever irrevocably and unconditionally release, acquit and discharge the United States and the Secretary

of Health and Human Services from any and all actions or causes of action (including agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature) that have been brought, could have been brought, or could be timely brought in the Court of Federal Claims, under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq., on account of, or in any way growing out of, any and all known or unknown, suspected or unsuspected personal injuries to or death of A.B. resulting from, or alleged to have resulted from, the flu vaccination administered on October 20, 2014, as alleged by petitioner in a petition for vaccine compensation filed on or about October 5, 2016, in the United States Court of Federal Claims as petition No. 16-1273V.

14. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if the Court of Federal Claims fails to enter judgment in conformity with a decision that is in complete conformity with the terms of this Stipulation, then the parties' settlement and this Stipulation shall be voidable at the sole discretion of either party.

15. This Stipulation expresses a full and complete negotiated settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended, except as otherwise noted in paragraph 9 above. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to. The parties further agree and understand that the award described in this Stipulation may reflect a compromise of the parties' respective positions as to liability and/or amount of damages, and further, that a change in the items of compensation sought, is not grounds to modify or revise this agreement.

16. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the flu vaccine caused A.B. to have CIDP or any other injury or caused his death.


17. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns as legal representatives of A.B.'s estate.

END OF STIPULATION


[illegible]

Respectfully submitted,


PETITIONER:


STACI PUTNAM


**ATTORNEY OF RECORD FOR
PETITIONER:**


MICHAEL McLAREN
Black McClaren Jones Ryland Griffee
530 Oak Court Drive, Suite 360
Memphis, TN 38117

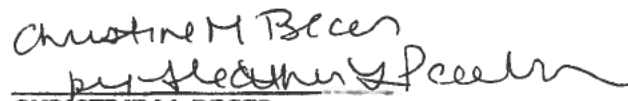
**AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:**


CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146

**AUTHORIZED REPRESENTATIVE
OF THE SECRETARY OF HEALTH
AND HUMAN SERVICES:**


TAMARA OVERBY
Acting Director, Division of Injury
Compensation Programs
Healthcare Systems Bureau
U.S. Department of Health
and Human Services
5600 Fishers Lane
Parklawn Building, Mail Stop 08N146B
Rockville, MD 20857

**ATTORNEY OF RECORD FOR
RESPONDENT:**


CHRISTINE M. BECER
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146
Tel: (202) 616-3665

Dated: 01/05/2021